

**STATE OF CONNECTICUT  
CONNECTICUT BOARD OF EXAMINERS FOR EMBALMERS AND  
FUNERAL DIRECTORS**

Michael G. Wade  
140 Fallon Drive  
Hamden, CT 06514

Petition No. 2001-0627-030-007

**MEMORANDUM OF DECISION**

***Procedural Background***

On June 28, 2001, the Department of Public Health ("the Department") presented the Connecticut Board of Examiners for Embalmers and Funeral Directors ("the Board") with a Statement of Charges ("the Charges"), Notice of Hearing, and a Motion for Summary Suspension against Michael G. Wade ("respondent"), who holds Connecticut embalmer license number 001950. Dept. Exh. A. The Charges, Notice of Hearing and Motion for Summary Suspension were served upon respondent by a State Marshal on June 29, 2001. Dept. Exh. A.

The Board granted the Department's motion to summarily suspend respondent's license pending a final determination by the Board regarding allegations contained in the Charges. The Motion for Summary Suspension was based on the Charges, affidavits and other related documents and the Department's information and belief that the continued practice of Michael G. Wade represented a clear and immediate danger to the public health and safety. The Charges allege that respondent violated Conn. Gen. Stat. § 20-227. Dept. Exh. A.

A hearing was scheduled for July 9, 2001. Attorney Steven Jacobs submitted a Motion for Continuance on behalf of respondent. The Board denied the Motion for Continuance, and the July 9, 2001 hearing was held as scheduled. Respondent appeared pro se. Ellen Shanley, Esq., represented the Department. The Board conducted the hearing in accordance with Conn. Gen. Stat. Chapter 54 and the Regulations of Connecticut State Agencies ("the Regulations") §19a-9a-1, *et seq.* At the end of the July 9, 2001 hearing another hearing was scheduled for August 8, 2001.

In consideration of respondent's asserted medical condition, a continuance of the August 8, 2001 hearing was granted and rescheduled for October 16, 2001. On October 3, 2001, respondent again requested a continuance of the October 16, 2001 hearing and informed the Board of the parties' efforts to formalize a resolution of the matters. The Board granted such request.

On November 6, 2001, respondent sought to voluntarily surrender his license and the Department moved to withdraw its Statement of Charges. On November 13, 2001, the Board rejected respondent's motion to voluntarily surrender his license and denied the Department's motion to withdraw.

The hearing resumed on March 5, 2002. Steven Jacobs, Esq. represented respondent. Ellen Shanley, Esq. represented the Department. The Department moved to deem the allegations admitted, and the Board granted the motion, without objection by respondent. All Board members involved in this decision attest that they have either heard the case or read the record in its entirety. This decision is based entirely on the record.

#### ***Allegations***

1. In paragraph 1 of the Charges, the Department alleges that respondent is, and has been at all times referenced in the Charges, the holder of Connecticut embalmer license number 001950.
2. In paragraph 2 of the Charges, the Department alleges that Connecticut Department of Public Health records indicate that respondent is the president of the Wade Funeral Home, Inc., 95 Dixwell Avenue, New Haven, CT., and that respondent directs the operations of the Wade Funeral Home, Inc.
3. In paragraph 3 of the Charges, the Department alleges the Wade Funeral Home inspection certificate to operate as a funeral home expired in June 2000.
4. In paragraph 4 of the Charges, the Department alleges that on or about June 25, 2001 the remains of five (5) human decedents were discovered stored in the garage of the Wade Funeral Home, that these remains were not disposed of in a timely manner, and that the remains were in varying states of decomposition.
5. In paragraph 5 of the Charges, the Department alleges that dirty and unsanitary conditions existed at the Wade Funeral Home, including but not limited to, dirt and red-colored residue was found on the instruments, the embalming machine, sheets and sink; waste was not properly disposed of; ceiling, floor and walls were in disrepair; and, the remains of the decedents were not properly stored.

6. In paragraph 6 of the Charges, the Department alleges that during February 2001, respondent filed an application to have his embalmer license re-issued, and that respondent made a misleading statement on the application.
7. In paragraph 7 of the Charges, the Department alleges that the above-described facts constitute grounds for disciplinary action pursuant to the General Statutes of Connecticut, §20-227.

***Findings of Fact***

1. Respondent is, and has been at all times referenced in the Charges, the holder of Connecticut embalmer license number 001950. Dept. Exh. A.
2. The Department provided respondent with reasonable and adequate written notice of: the allegations contained in the Charges; the Motion for Summary Suspension; and, the Notice of Hearing which included notification to respondent that he was required to file an Answer to the Charges within fourteen (14) days from the date of the Notice. Dept. Exh. A.
3. Respondent received the Notice of Hearing and the Department's Motion to Deem Allegations Admitted. Dept. Exh. A.
4. Respondent did not file an Answer within fourteen days of the Notice of Hearing and did not establish good cause for his failure to do so. Dept. Exh. A.
5. The allegations contained in paragraphs 1 through 7, inclusive of the Charges as set forth above, are deemed admitted and true. Tr. 3/5/02, pp. 4-8.
6. On February 20, 2001, a letter was sent to respondent informing him that the inspection certificate for the Wade Funeral Home had expired on June 30, 2000 and was not renewed. Dept. Exh. X, Tr. 7/9/01 p. 100.
7. By letter dated February 2, 2001, respondent attached a letter to his application to renew his embalmer license in which he stated his "professional activities have been very limited since the lapse of his license." Since the funeral home inspection certificate had expired on June 30, 2000, respondent admittedly practiced without a valid inspection certificate between June 30, 2000 and February 2, 2001. Dept. Exh. Z.
8. The remains of the five human decedents that were found were entrusted to respondent and within his control to ensure proper disposal. Respondent's records contained the identities of the decedents. Tr. 7/9/01 p.65.
9. One of the bodies was identified as that of a homicide victim, Fred Carmon, whose body was "turned over to Mr. Wade for interment... to be embalmed, laid

for viewing and then cremated and his ashes transported, sent to his niece in North Carolina.” Files seized from respondent’s office contained records for Fred Carmon, inclusive of a death certificate signed by respondent. Tr. 7/9/01 pp. 80-83, Dept Exhs. S-V.

10. Dirty and unsanitary conditions existed at the Wade Funeral Home while under the direction of respondent. This fact was further supported by the Department’s submission of photos of the condition of the funeral home. Tr. 7/9/01 pp. 23-63, Dept. Exh. B- R and AA – DD.
11. On March 28, 2000, a complaint was filed against respondent. Respondent had knowledge of this complaint. Dept. Exh. Y, Tr. 7/9/01 pp. 101-103.
12. Respondent filed an application for renewal of his embalmer’s license on February 2, 2001. On the Statement of Professional History, attached to his application, in answer to the question of whether he was ever subject to any complaint, investigation, charge or disciplinary action, respondent replied “no.” Dept. Exh. Z, Tr. 7/9/01 pp.101-103.

### ***Discussion and Conclusions of Law***

The Department bears the burden of proof by a preponderance of the evidence in this matter. *Steadman v. Securities and Exchange Commission*, 450 U.S. 91, 101 S.Ct. 999, *reh’g denied*, 451 U.S. 933 (1981); as cited in *Bridgeport Ambulance Service, Inc., v. Connecticut Dept. of Health Services*, No. CV 88-0349673-S (Sup. Court, J.D. Hartford/New Britain at Hartford, July 6, 1989); *Swiller v. Commissioner of Public Health*, No. CV 95-0705601 (Sup. Court, J.D. Hartford/New Britain at Hartford, October 10, 1995).

Section 19a-10 of the Connecticut General Statutes provides in pertinent part, “Any board may conduct hearings on any matter within their statutory jurisdiction. Such hearings shall be conducted in accordance with Chapter 54 and the Regulations established by the Commissioner of Public Health.” As provided in Section 19a-14a(10), the Board of Examiners of Embalmers and Funeral Directors is authorized to conduct a hearing relating to the allegations enumerated within the Charges against Michael G. Wade, embalmer.

As the motion to deem allegations admitted was granted by the Board in this case, respondent has specifically admitted to all of the allegations contained in the Charges. Moreover, a preponderance of the evidence further establishes all of the violations.

Specifically, respondent was found to have violated §20-227 of the Connecticut General Statutes, which provides:

. . . the board may take any of the actions set forth in section 19a-17 against a licensee . . . if it finds the existence of any of the following grounds: (1) The practice of any fraud or deceit in obtaining or attempting to obtain a license, registration or inspection certificate; (2) violation of the statutes or regulations . . . relative to the business of embalming or funeral directing in this state; . . . (4) incompetency, negligence or misconduct in the carrying on of such business or profession. . .

As evidenced by a letter written by respondent to a Department investigator received May 4, 2000, respondent knew at the time he submitted his application for renewal of his embalmer license that he had been subject to an investigation by the Department based on a complaint filed against him on March 28, 2000. Despite this knowledge, respondent deliberately misrepresented on his application that he had not ever been subject to a complaint or investigation. This statement constitutes “the practice of fraud or deceit in obtaining . . . a license,” in violation of §20-227(1). FF 12.

Additionally, respondent violated statutes relative to the business of funeral directing and was incompetent and negligent as alleged. Respondent, as an embalmer and in accordance with §20-223 of the Connecticut General Statutes, may act as a funeral director. In such capacity, respondent was mandated to conform to the standards of practice as outlined in §20-207(3) which specifically provides:

Funeral Directing means the business, practice or profession, as commonly practiced of . . . (B) handling or encasing or providing services for handling and encasing dead human bodies, otherwise than by embalming, for burial or disposal; (C) providing embalming services; (D) providing transportation, interment and disinterment of dead human bodies; (E) maintaining an establishment so located, constructed and equipped as to permit the decent and sanitary handling of dead human bodies, with suitable equipment in such establishment for such handling. .

The discovery of five bodies in varying stages of decomposition clearly establishes respondent failed to handle the bodies in a timely manner for proper burial or disposal. FF 8, 9. The discovery of the bodies in the garage of the funeral home further establishes that he failed to provide final disposition of the bodies. FF 9. Based on

respondent's statement on the record, "the only way I can tell you who they are is if I have my records from the funeral home that were taken." The Board finds that the bodies that were found were entrusted to respondent and within his control to ensure proper disposal, embalming and/or interment. FF 8.<sup>1</sup> Moreover, the investigation of the Wade Funeral Home uncovered the existence of dirt and red-colored residue found on the instruments, embalming machine, sheets and sink; improper disposal of waste; ceiling, floor and walls in disrepair; and improperly stored decedent remains. All of the foregoing constitutes violations of statutes relative to the business of funeral directing, and incompetence and negligence in violation of §§20-227(4) and 20-227(2). FF 5, 10.

Finally, Section 20-222(a) of the Connecticut General Statutes provides in pertinent part that: "[n]o person, firm, partnership or corporation shall enter into, engage in, or carry on a funeral service business unless an inspection certificate has been issued by the department for each place of business..." Respondent admits that he engaged in at least "limited" professional activities while operating the Wade Funeral Home while its inspection certificate had expired. FF 7. As a licensed embalmer and funeral director, respondent was responsible for ensuring the funeral home had a valid inspection certificate. The funeral home inspection certificate expired on June 30, 2000, and yet respondent did not apply to renew the inspection certificate at any time. FF 5,6. The statutes do not provide for an automatic renewal of a inspection certificate, a fact respondent, who has been licensed in Connecticut since July 1970, should reasonably have known. See Conn. Gen. Stat.

§ 20-222a. FF 11. Thus, respondent violated Conn. Gen. Stat. § 20-222a and, therefore, § 20-227(2) by operating the Wade Funeral Home without a current inspection certificate.

The Board finds respondent's violations of the applicable statutes and standards of practice were proven by a preponderance of the evidence and by the application of the Board's own expertise in evaluating the evidence. Thus, in accordance with Conn. Gen. Stat. §20-227, and based on the foregoing findings of fact and conclusions of law, respondent's license is subject to disciplinary action. Pursuant to §19a-17 of the

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<sup>1</sup> The Board notes that even if the bodies had not been entrusted to respondent, respondent's possession of the bodies obligated him to provide for a proper disposal of the bodies.

Connecticut General Statutes the Board, "may take any of the following actions, singly or in combination. . . (1) Revoke a practitioner's license or permit; . . . (2) Assess a civil penalty of up to ten thousand dollars." The Board finds there is sufficient basis to issue the following order in this matter.

***Order***

Based upon the record in this case, the above findings of fact and conclusions of law, and pursuant to the authority vested in it by Conn. Gen. Stats. §§ 19a-17 and 20-227, the Board orders the following in the case of Michael Wade, Petition number 2001-0627-030-007, who holds Connecticut embalmer license number 001950:

1. Respondent's license number 001950 to practice as an embalmer in the State of Connecticut is revoked.
2. Respondent shall pay a civil penalty of fifty two thousand five hundred dollars (\$52,500) which represents \$10,000 for each improperly stored decedent, plus \$2,500 for the unsanitary conditions on the premises. Such payment shall be made by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable within thirty days of the effective date of this Decision.

Connecticut Board of Examiners for  
Embalmers and Funeral Directors

11-12-02

Date

Celia Pinzi

By: Celia Pinzi, Chairperson